

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT (“Second Amendment”) is entered into this ^{7/23/2015} day of ^{7/23/2015}, 2015, between the **City of North Miami**, a Florida municipal corporation with a principal address of 776 NE 125th Street, North Miami, Florida (“City”), and **Recyclerewards, Inc.**, a foreign for-profit corporation organized and existing under the laws of the State of Florida, having its principal office at 151 West 26th Street, 11th Floor, New York, NY 10001 (“Contractor”). The City and Contractor shall collectively be referred to as the “Parties” and each may individually be referred to as a “Party”.

RECITALS

WHEREAS, on September 25, 2008, the City entered into an agreement with Contractor (“Agreement”) to provide City with recycle reward services to residents including, among other things, the provision of technical training and support, container management and performance reports, incentive management and resident services, education and community outreach services, asset maintenance, marketing services, and other related services as more particularly described in the attached Agreement (collectively referred to herein as, “Services”); and

WHEREAS, on September 25, 2013, the Parties executed a First Amendment to Agreement (“First Amendment”) to, among other things, extend the term of Agreement, update the Incentive Recycling Program portion of Services, and replace the fee schedule under the Agreement to forty cents (\$0.43) per month per Eligible Household. Such amendments as more particularly described in the First Amendment, attached hereto; and

WHEREAS, the City Manager desires to amend the Agreement, as amended by the First Amendment, to set forth a new Term of Agreement and schedule of Fees; and

WHEREAS, the City Manager finds that entering into this Second Amendment to continue to provide recycling related Services to residents, serves the best interest of the City and supports the public health, safety, and welfare.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth herein, the Parties agree as follows:

1. The Parties agree that this Second Amendment is incorporated into and made part of the Agreement (executed by the Parties on September 25, 2008), as subsequently amended by the First Amendment (executed by the Parties on September 25, 2013), both of which are attached hereto as “Exhibit A”.

2. **Term**. The Parties hereby amend the Agreement to provide the following new Term:

3.1.1 **Term of Agreement**. The Term of Agreement shall be two (2) years, commencing in June 8, 2015, and ending in June 7, 2017.

3.1.2 **Option to Renew Agreement.** The City reserves the right to extend the Agreement, for an additional three (3) years, on a year-by-year basis, with the mutual written consent of the City Manager and Contractor.

3. **Fees.** The Parties hereby amend the Agreement to provide the following new Fee structure:

3.1.1 Start-up fee is waived. If the City requests Contractor to direct mail to residents the announcement of Services, the appropriate per household cost will be charged. Digital announcement to past subscribed members is included at no charge.

3.1.2 Recurring Monthly Cost of Forty Cents (\$0.43) per eligible household.

4. **Termination.** The Parties hereby amend the Agreement to allow the City Manager to terminate the Agreement, in his/her sole discretion at any time, with or without cause, with ninety (90) days written notice to Contractor.

5. **Severability.** Should any provision, paragraph, sentence, word or phrase contained in this Second Amendment be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

6. **Governing Law and Venue.** This Second Amendment shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

7. **Audit.** The City Manager reserves the right to audit the records of the Contractor covered by the Agreement at any time during the provision of Services and for a period of three years after final payment is made under by the City.

8. **Compliance with Laws.** Contractor agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

9. **Assignment of Services.** Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City Manager.

10. **Tax Exemption.** The City is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.


11. **Non-Exclusive Provision.** The Services to be provided by Contractor shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Services.
12. **Binding Affect.** This Agreement shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.
13. **Anti-Discrimination.** Contractor agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance of Services under the Agreement.
14. **Priority.** All other terms, conditions and requirements contained in the Agreement and in the First Amendment, which have not been modified by this Second Amendment, shall remain in full force and effect.
15. **Disputes.** In the event of any dispute arising under or related to the Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of the Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.
16. **Counterparts.** This Second Amendment may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Second Agreement.

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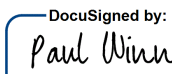
IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be executed by their respective and duly authorized representatives effective as of the date first written above:

ATTEST:

Corporate Secretary or Witness:

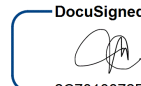
By: 
 98AFB7D83F8D404...
Print Name: Laurie Johnson
Date: 7/23/2015

Recyclerewards, Inc., a foreign for-profit corporation,
“**Contractor**”:

By: 
 D29292C7819048F...
Print Name: Paul Winn
Date: 7/23/2015


ATTEST:

City of North Miami, a Florida municipal corporation: “**City**”

By: 
 2C7010872EE8414
Michael A. Etienne, Esq.
City Clerk

By: 
 AD8C42C3AFAE44B...
Aleem A. Ghany
City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 
 F2F0146943844E7...
Roland C. Galdos
Interim City Attorney